

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

TIM FREDRICKSON,

Plaintiff,

-vs-

ATTORNEY GENERAL OF THE
UNITED STATES, et al.,

Defendants.

Case No. CIV-21-0046-F

ORDER

Plaintiff Tim Fredrickson was ordered, to submit, within 60 days of March 3, 2021, certified copies of the trust fund account statements (or institutional equivalents) for plaintiff for the 6-month period immediately preceding the December 9, 2020 filing of his complaint, obtained from the appropriate official of each prison or jail at which plaintiff was confined during that period. Doc. nos. 15 and 20. The court advised that failure to comply with the order may result in the dismissal without prejudice of this action without further notice to plaintiff. *Id.* The court also held in abeyance the Report and Recommendation issued by United States Magistrate Judge Amanda Maxfield Green on February 24, 2021 (doc. no. 13), recommending dismissal without prejudice of plaintiff's action for his failure to comply with her January 29, 2021 order (doc. no. 11) requiring plaintiff to submit "the statement(s) of institutional account(s)" by February 19, 2021. *Id.*

On April 21, 2021, plaintiff filed a "Request for Status of Acceptance." Attached to his request are "Resident Transaction Details" from the Mercer County Jail. Plaintiff requests the documents' acceptance as complying with the court's

order. He also represents that Cimarron CoreCivic (Cimmaron Correctional Facility in Cushing, Oklahoma) has not responded to date.

Since April 21, 2021, the court has not received any further documents from plaintiff and the 60-day period to comply with the court's order has clearly passed. Upon review, the court finds that the Mercer County Jail documents submitted by plaintiff are not in compliance with the court's order as they are not in compliance with 28 U.S.C. § 1915(a)(2). Therefore, the court finds that plaintiff's Request for Status of Acceptance should be denied. In addition, the court finds plaintiff has failed to comply with the court's orders (doc. nos. 15 and 20) because he has not submitted certified copies of the trust fund account statements (or institutional equivalents) for plaintiff for the 6-month period immediately preceding the December 9, 2020 filing of his complaint, obtained from the appropriate official of each prison or jail at which plaintiff was confined during that period.


As plaintiff has not complied with the court's orders (doc. nos. 15 and 20) and plaintiff was previously advised that failure to comply may result in the dismissal without prejudice of this action, the court finds that plaintiff's action should be dismissed without prejudice pursuant to Rule 41(b), Fed. R. Civ. P.¹ In light of the court's ruling, the court concludes the Report and Recommendation issued by United States Magistrate Judge Amanda Maxfield Green on February 24, 2021 (doc. no. 13), plaintiff's Motion to Appoint Counsel (doc. no. 3) and plaintiff's Application to Proceed in District Court without Prepaying Fees or Costs (doc. no. 5) should be stricken as moot.

¹ "Although the language of Rule 41(b) requires that the defendant file a motion to dismiss, the Rule has long been interpreted to permit courts to dismiss actions sua sponte for a plaintiff's failure to . . . comply with the . . . court's orders." Olsen v. Mapes, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003) (citation omitted).

Accordingly, plaintiff Tim Fredrickson's Request for Status of Acceptance (doc. no. 21) is **DENIED**. Plaintiff's action is hereby **DISMISSED WITHOUT PREJUDICE** pursuant to Rule 41(b), Fed. R. Civ. P.

In light of the court's ruling, the Report and Recommendation issued by United States Magistrate Judge Amanda Maxfield Green (doc. no. 13), plaintiff's Motion to Appoint Counsel (doc. no. 3) and plaintiff's Application to Proceed in District Court without Prepaying Fees or Costs (doc. no. 5) are **STRICKEN** as **MOOT**.

IT IS SO ORDERED this 19th day of May, 2021.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

21-0046p003.docx